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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Report of the United Nations visiting mission to New Caledonia, 12–16 and 19 March 2018

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I. Origin of the mission

1. On 2 November 2017, the Government of France, as the administering Power of the Non-Self-Governing Territory of New Caledonia, in consultation with the Committee of Signatories to the Nouméa Accord decided to propose to the United Nations that the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples conduct a second visiting mission to New Caledonia in the first quarter of 2018, pursuant to the request made by the Special Committee in its substantive session in June 2017, which was subsequently endorsed by the General Assembly in its resolution 72/111 of 7 December 2017.

2. The visiting mission to New Caledonia was formalized on 9 February 2018, following an official letter to the acting Chair of the Special Committee from the Government of France, transmitted through its Permanent Mission to the United Nations in New York, which reiterated that the Government agreed with the mission taking stock of the ongoing preparations for the referendum on self-determination and of the lessons learned from the previous mission to the Territory in March 2014. This followed the acceptance by the Special Committee, at its informal meeting held on 29 November 2017, of the proposal by the Government of France. At a meeting of the Bureau of the Special Committee with the delegation of France on 19 January 2018, as part of the annual informal round of consultations with administering Powers and other stakeholders, it was further proposed that the mission be carried out from 12 to 16 March in New Caledonia and on 19 March 2018 in Paris and that France would commit to facilitating meetings for the mission, including with relevant authorities in Paris. The Government of France stressed the importance of publishing the report on the mission before the end of June 2018, not during the electoral campaign.

3. On 22 February 2018, at its first meeting of the 2018 session, the Special Committee decided to send a mission to New Caledonia from 12 to 16 and 19 March 2018, with funding for three Committee members and two Secretariat staff from the budget of the Special Committee.

II. Mandate of the mission

4. The Committee established the terms of reference of the mission, which outlined the agreed objective of gathering first-hand information on the situation in the Territory with regard to the various aspects of the implementation of the Nouméa Accord of 1998 and supporting the Territory in its preparations for the referendum on self-determination, to be held later in 2018, as provided for in the Accord. It was also agreed that the mission would build on the conclusions and recommendations of the previous mission carried out in 2014 and assess the current situation on the ground, in line with the relevant resolutions of the General Assembly and of the Special Committee.

III. Composition of the mission

5. The Special Committee decided that the mission would be composed of four members of the Committee: Cuba, Indonesia, Iraq and Papua New Guinea. The members of the mission included: Ambassador of the Permanent Mission of Cuba to the United Nations and Chair of the visiting mission, Humberto Rivero Rosario; Deputy Permanent Representative of Papua New Guinea to the United Nations, Fred Sarufa; Deputy Permanent Representative of Iraq to the United Nations, Mohammed Sahib Mejid Marzooq; First Secretary of the Permanent Mission of Indonesia to the

United Nations, Indah Nuria Savitri; and Second Secretary of the Permanent Mission of Iraq to the United Nations, Mohammed Qasim Karem. The mission was accompanied by two staff members of the United Nations Secretariat: Chief of the Decolonization Unit of the Department of Political Affairs, Josiane Ambiehl; and Political Affairs Officer in the Decolonization Unit, Kazumi Kawamoto.

IV. Acknowledgements

6. The Special Committee extends its sincere appreciation to the Government of France, in particular, to the Permanent Representative of France to the United Nations and his delegation, for the constructive cooperation in facilitating the Mission to New Caledonia and for the commitment to the implementation of the Nouméa Accord. A special tribute is paid to the High Commissioner of New Caledonia and the people of New Caledonia for the generous hospitality and the excellent support provided to the mission.

V. Background

7. The independence movement of the indigenous Kanak people in New Caledonia gained momentum in the 1970s in a context of decolonization. Confrontations between pro- and anti-independence elements led to violence during the 1980s, known as the événements (events), with the death of approximately 80 people between 1984 and 1988. The violence was halted with the conclusion of the Matignon Agreement on 26 June 1988 between the Front de libération nationale kanak et socialiste (FLNKS), the loyalist Rassemblement pour la Calédonie dans la République and the Government of France.

8. The Matignon Agreement provided for greater local autonomy and substantial aid aimed at redressing the deep inequalities between the French and Kanak communities, and committed the Territory to holding a referendum on self-determination 10 years later. Following negotiations that began in the 1990s, the pro- and anti-independence camps signed the Nouméa Accord on 5 May 1998, redefining the Territory's status without the need for the referendum provided for in the Matignon Agreement.

9. The decolonization process of New Caledonia is governed by the Nouméa Accord and its implementation is monitored by the Committee of Signatories. Under the Accord, France agreed to transfer certain non-sovereign powers to the Government of New Caledonia between 1998 and 2018. Furthermore, in accordance with the Accord, as well as the decision taken by the Congress of New Caledonia on 19 March 2018, a referendum on whether New Caledonia should assume full sovereignty will be held on 4 November 2018. The question asked in the referendum is expected to refer, according to the Nouméa Accord, to the transfer of sovereign powers to New Caledonia, access to an international status of full responsibility and the organization of citizenship by nationality. Should independence be rejected, a second referendum may be held in 2020 at the request of one third of the members of the Congress (19 members). If independence is again rejected, a third referendum may be held in 2022 under the same conditions. If the response is still negative, the parties to the Accord would meet to consider the situation thus created.

10. New Caledonia has a 54-member territorial Congress. The territorial Government represents the executive power and is headed by a president, who is elected by Congress and answerable to it. The Nouméa Accord stipulates that the Government, as a collegial body, must proportionally reflect party representation in Congress.

11. To accommodate full recognition of the Kanak identity and culture, a set of institutions parallel to Congress and the territorial Government was established. There are eight customary councils representing eight customary regions. In addition, a Territory-wide Customary Senate with a rotating presidency comprises 16 members, with 2 members selected by each customary council. The Customary Senate is consulted by the executive and legislative bodies of New Caledonia on matters related directly to the Kanak identity and has no normative power. The Economic, Social and Environmental Council of New Caledonia is a consultative body composed of 41 members that advises the Government on projects and possible laws on economic, social and environmental issues. The French Ministry of Overseas Territories exercises the authority of the Government of France in New Caledonia. The administering Power is represented in the Territory by the High Commissioner.

12. There are three electorates in New Caledonia: the general electorate (for French nationals who can vote for French and European institutions), the special electorate consisting of those eligible to vote in elections to the Congress and the provincial assemblies (known as the "restricted electorate") and a special electorate consisting of those eligible to participate in the final status referendums, also referred to as "consultations", under the Nouméa Accord (for those who can vote on accession to full sovereignty). The conditions for inclusion in this last electorate are set in article 218 of Organic Law 99-209 of 19 March 1999.

13. Since 1999, the composition of the electorate for provincial elections has been an important subject of political and legal debate between those in favour and those against independence (see A/AC.109/2014/20/Rev.1). The roll is updated annually by the Special Administrative Commissions, headed by magistrates appointed by the First President of the Court of Cassation. Each Commission includes a representative of the administration appointed by the High Commissioner, a representative of the mayor of the municipality and two representatives of voters in the municipality (one pro-independence voter and one anti-independence voter).

14. According to the conclusions of the Committee of Signatories of 2 November 2017, it was estimated that as many as 10,922 native New Caledonians who resided in the Territory were not registered on the general electoral roll. In view of the upcoming referendum, the partners agreed on the political necessity to take exceptional steps to register these persons automatically on the general electoral roll, which is required for their registration on the special electoral roll for the referendum. The partners also agreed to allow an additional period for voters to register in 2018 for the general electoral roll, the special provincial electoral roll and the special electoral roll for the referendum.

Information on the Territory

15. For more detailed information on the Territory, see the working papers on New Caledonia prepared by the Secretariat (for example, A/AC.109/2018/11).

VI. Key messages delivered by the mission

16. The Chair and the members of the mission explained the mandate of the Special Committee and the objectives of the mission, which included gaining first-hand information on the situation in New Caledonia and exchanging views with all interested parties on the preparations for the referendum scheduled for 2018, in particular regarding the holding of the referendum and the vision thereafter. The mission considered it crucial for the process to be transparent and fair to all.

17. It was highlighted that the mission was impartial and did not intend to interfere in the referendum in New Caledonia. Any resolution of the issue would be the prerogative of the relevant parties, particularly the people of New Caledonia. The mission had travelled to New Caledonia to hear all voices and the perspectives of all stakeholders. Lastly, in line with the agreement reached at the Committee of Signatories on 2 November 2017, the report of the visiting mission would be issued before the end of June 2018.

VII. Preparation of the referendum envisaged by the Nouméa Accord

A. Meetings with the High Commissioner

18. The discussion focused on the institutional mechanisms under the Nouméa Accord, including increased power for each commune, the collegial Government, transfer of competencies, and cultural institutions. The Government of France also provided financial support and investment in the Territory, especially for the nickel factory in the North Province within the context of the rebalancing policy.

19. On the issue of electoral rolls, the Committee of Signatories decided on 2 November 2017 that 11,000 voters would be registered automatically, despite the fact that, under French electoral law, persons over the age of majority who were not registered to vote had to voluntarily initiate their registration. This automatic voter registration required a new draft organic law, which would be debated and voted on in the National Assembly on 13 and 20 March, respectively. Furthermore, the referendum was likely to be held on 4 November 2018, to be approved by the Congress of New Caledonia on 19 March. In addition, the formulation of the question would be examined by the Committee of Signatories on 27 March.

20. The need to achieve a balance between the different groups was emphasized, since historically the principle of majority has not proven to be an efficient tool to resolve issues in New Caledonia. In that regard, a group of 10 persons, known as the "G10", was responsible for examining the future after the referendum. The G10 had been created by the Prime Minister of France during his visit to the Territory in December 2017. Even though two members had left the G10 recently, the group was continuing to draft a document reflecting common values in New Caledonia.

21. Regarding the role of the United Nations, all the parties in New Caledonia welcomed the mission of the Special Committee, as well as the mission of the United Nations electoral experts. The presence of international observers was requested for the period towards the end of the electoral campaigns and on the day of the referendum. The presence of the Special Committee was also desired.

B. Meeting with the territorial Government

22. The territorial Government was collegial in nature, in accordance with the Nouméa Accord, and consisted of six anti-independence and five pro-independence groups of parties. Regardless of their political affiliation, all shared the common goal of ensuring that the 2018 referendum would be transparent and undisputable. It was particularly emphasized that the referendum should not divide New Caledonia, but rather it should create a common destiny to construct the future of the Territory. Political parties were thus responsible for informing voters about their vision after the referendum. At its next meeting, the Committee of Signatories would examine the three elements identified in the Nouméa Accord for inclusion in the question to be

asked at the referendum, namely the transfer of sovereign powers to New Caledonia, access to an international status of full responsibility and the organization of citizenship by nationality.

23. The discussion also touched on the technicalities of the referendum. With regard to the automatic registration of some 11,000 voters, of that number, 7,000 had customary civil status, which was cross-checked with other social files, such as health insurance, while the other 4,000 voters had ordinary civil status. In addition, a new draft organic law would increase the accessibility of the referendum by establishing decentralized polling stations, enabling people from other islands to choose to vote in Nouméa instead of returning to their original locality. Political parties agreed by consensus to conduct fair electoral campaigns by balancing their media exposure equally.

24. Concerns were raised about the lack of electoral education and the need for an awareness-raising campaign, especially for the youth, the challenge posed by the rebalancing policy and the protection of the Kanak identity. It was expected that France would remain constructively engaged in the decolonization process, while the United Nations was urged to monitor the referendum process.

C. Meeting with the President of the Congress

25. It was confirmed that the Congress would decide on the date of the referendum on 19 March. The date was likely to be set for 4 November 2018, which had been proposed taking into account the time required to prepare the electoral rolls, as well as the school and customary calendar holidays. No other discussion related to the referendum was scheduled in the Congress since it was the Committee of Signatories that would take decisions on such matters as the formulation of the question.

26. Efforts had been made to make the electoral rolls more inclusive, as demonstrated by the participation of United Nations electoral experts in the work of the Special Administrative Commissions.

27. However, in the light of the lack of consistent updates to the customary civil registry, it would be difficult to include in the electoral rolls those persons unable to justify their status through other social files. It was considered that such cases would be very limited in number and would therefore not be expected to undermine the credibility of the referendum. The addition of about 11,000 voters on the other hand was justified because their status could be verified by other official documentation.

28. Speaking in his capacity as a politician, the President of the Congress expressed his opinion that the best choice for New Caledonia to achieve the highest degree of autonomy would be to remain in France.

29. Responding to questions regarding a possible boycott, concerns were raised that some political parties could boycott the referendum and that it could lead to deeper divisions among New Caledonians. It was thus necessary to have a consensual proposal following the example of the Matignon Agreement of 1988 and the Nouméa Accord of 1998.

D. Meeting with the Customary Senate

30. The Customary Senate, created in 1999, is mandated to promote customary legitimacy in New Caledonia. Its deliberative assembly consists of 16 senators, nominated by 8 customary councils. To promote recognition of indigenous rights, the Customary Senate had drafted a charter of the Kanak people, regarding their value

system and fundamental principles, which had been validated by 34 customary districts and 207 chieftainships. However, the Customary Senate continued to face difficulties in having its proposals taken into account on matters relating to the implementation of Kanak identity policies in connection with the management of customary territories, land and resources, as well as youth and education. The United Nations was seen as an important actor to accompany the process of the referendum and thus the second mission of the Special Committee was welcomed by the Customary Senate.

31. Regarding the protection of Kanak traditional culture, it was emphasized that the three provinces should have common policies in order to meet the needs of the Kanak people through the further strengthening of existing institutions, such as the Tjibaou Cultural Centre.

32. On the status of women, it was highlighted that Kanak women are valued and respected according to a traditional system that differs from the Western system.

33. The Customary Senate raised the following concerns:

(a) The empowerment process defined in the Nouméa Accord had not yet achieved the full objectives of decolonization;

(b) Organizing the first referendum scheduled for November 2018 and registering indigenous people, in particular young people, was proving to be challenging.

34. The Customary Senate recommended the following:

(a) The referendum should be sincere in accordance with the United Nations principles on decolonization;

(b) The United Nations should guarantee the irreversibility of the Nouméa Accord and the Special Committee should contribute its expertise on decolonization;

(c) The Government of France should genuinely support the current referendum process by providing information on the two options: for and against independence. In particular, the Government of France should explain how it intends to accompany New Caledonia on the path to independence;

(d) Primary schools in New Caledonia should better take into account Kanak culture and tradition.

E. Meeting with the Secretary-General of the High Commission

35. The meeting provided information on the technical aspects of the referendum. It was expected that a total of 277 polling stations would be set up all over New Caledonia, as well as 11 decentralized polling stations in Nouméa. Those who preferred to vote in Nouméa rather than in their original locality would have a time frame, between 1 June to 15 September 2018, in which they would be able to choose where to vote, in order to avoid double-counting.

36. Regarding the question to be asked at the referendum, many agreed that the wording in the Nouméa Accord was not easy to understand. Therefore, in formulating the question, those in favour of and those against independence had differing proposals. Those in favour of independence preferred to use the exact term "full sovereignty" from the Nouméa Accord, while those who were against independence preferred the word "independence". Those in favour preferred a question that required voters to respond "yes" or "no", whereas those against proposed to ask an open question spelling out the options of remaining in France or acceding to independence.

37. On the issue of the electoral rolls, it was underlined by the interlocutor that, unlike the provincial electoral roll, which was contested owing to the different interpretation of criteria, the special electoral roll for the referendum tended to be less controversial as its criteria were relatively simple and more focused.

38. In a response to a query by the mission, it was underscored that there was no minimum voter participation required to validate the outcome of the referendum. It was also emphasized that an intensive awareness-raising campaign had been conducted for the last two to three years to increase voter registration and participation. Lastly, although the Nouméa Accord foresaw three possible referendums (in 2018, 2020 and 2022), the Government of France would not be in the position to enforce the second or third referendums since they would require a request from one third of the members of the Congress of New Caledonia (19 members).

39. Regarding the efforts made by France to inform voters on the upcoming referendum, there were plans for a presentation from a legal point of view.

F. Meetings with the provincial assemblies

Loyalty Islands Province

40. The President of the Loyalty Islands Province mentioned that, even though a draft organic law was now under consideration by the National Assembly, it was regrettable that the electorate for the referendum was enlarged since it should have been restricted to "those who were originally colonized". In fact, the electorate had gradually expanded to include "the victims of history" (prisoners from France sent to the penal centres in New Caledonia) and the population from France who had settled on the islands in recent years. The Kanak people had conceded to such a point that they had gone from being the "first people" to a minority.

41. The discussion also touched on decentralized polling stations, which would require voters to take voluntary steps to be able to vote in Nouméa Concerns were voiced about the Nouméa Accord, which was not always respected in its implementation.

North Province

42. Since the creation of the North Province in 1989, following the signing of the Matignon Agreement, one of the priority issues had been to develop the province and modernize its economy through the market system. It was noted that most of the investment and infrastructure construction began only in 2008, when the construction of a metallurgical plant of the Koniambo nickel complex was under way. Efforts had been made by the North Province government to prove that the province was safe. There was a need to agree on common values regardless of the outcome of the referendum.

43. The majority in the North Province supported independence and aimed to achieve a sovereign country. If full sovereignty were achieved, they would ask the Government of France to organize the transition towards a sovereign State. Even if the outcome of the referendum were negative, pro-independence groups would still pursue their quest for independence and would ask the United Nations for assistance. They would also continue to claim that they had been colonized and that they therefore had a right to be decolonized. For that to happen, full sovereignty was needed.

South Province

44. There was a general understanding that every effort needed to be made to guarantee that the referendum would not be contested, ensuring its sincerity and transparency. To that end, efforts have intensified on three fronts: (a) on the electoral rolls, important work was under way to ensure that all New Caledonians who have the right to vote are registered to do so; (b) it was equally important to enable eligible referendum voters to have access to a polling station on referendum day, to which end, decentralized polling stations were being foreseen in Nouméa for voters originally registered on electoral rolls in the Loyalty, Belep and Pine Islands; and (c) it was essential to ensure that the question asked in the referendum would be clearly understood by all.

45. On the vision after the referendum, it was underscored that New Caledonia had been living in peace for the last 30 years, which had enabled its development. However, should one part of the New Caledonian population not accept the result of the referendum, peace would be at risk. It was therefore important to remind them that the referendum was framed in a political perspective of both decolonization and the right to self-determination. Significant efforts were being made by the different political actors to unite in drafting a common declaration of shared Kanak, Oceanic and European values that went beyond pro-independence or anti-independence aspirations. At the same time, it was important to make clear that the outcome of the referendum would not mean immediate removal from the United Nations list of Non-Self-Governing Territories.

G. Meetings with municipal authorities and officials

Koné

46. The discussion focused on the status of preparation of the upcoming referendum. The political parties had agreed that the referendum should be held on 4 November 2018, and that date would soon be adopted by the territorial Congress.

47. The Special Administrative Commission was responsible for revising and finalizing the electoral rolls. As a result, the number of voters had increased dramatically from 2017 to 2018. In addition, an outreach campaign was currently under way to automatically register additional voters, after verifying their identity through cross-referencing. There were 11 operational polling stations in Koné, and one additional polling station was about to be created.

48. The current challenge was to decide on the formulation of the question for the referendum.

49. It was also necessary to assess the outcome of the Nouméa Accord as its initial assessment had been carried out in 2011.

Lifou

50. It was of the utmost importance to ensure that the referendum would take place in full transparency and that its outcome would not be contested. To that end, both pro- and anti-independence actors had to work together to create conducive conditions and encourage participation. The importance of peaceful conduct of the referendum was underscored. France should remain impartial in the process.

51. The role of the election office of Lifou was to revise the electoral rolls, receive voluntary registration requests and inform the population about the registration process. In 2018, three phases of revision were planned for the special provincial electoral roll and the special electoral roll for the referendum. The first phase would

involve the examination of registration requests, the second phase would be administrative review and the third phase would be judicial review. The special provincial electoral roll would be finalized by 30 July 2018, while the special electoral roll for the referendum would be completed by 31 August 2018. The city hall of Lifou was encouraging young people in particular to register on the electoral roll.

52. Positive developments had been observed since the signing of the Matignon Agreement, such as the implementation of the rebalancing policy. Lastly, it was important to recognize that the youth who committed acts of delinquency were also children of the Kanak people who carried sacred Kanak names related to the land of New Caledonia.

Nouméa

53. The discussion focused on technical aspects and the organization of the referendum for the city of Nouméa. Regarding the decentralized polling stations, in June 2018, voters registered outside Nouméa would be requested to choose whether they wished to vote in Nouméa through the use of decentralized polling stations or in their home locality. That decision would be irreversible after a set deadline. It was expected that from 5 to 11 decentralized polling stations would be set up in addition to the 56 existing polling stations in Nouméa. Once the number of decentralized polling stations had been determined, the city hall would provide the necessary logistics.

54. The city hall also managed proxy votes which required careful attention to avoid duplication. Lastly, the city hall assisted voters with documentation for their registration and engaged in raising awareness to encourage voters to register.

H. Meetings with political groups

Calédonie ensemble

55. The issue of the youth was discussed extensively. Even though young people had known only the period of peace and had not lived through the events that took place in the 1980s, they understood why the Nouméa Accord existed and what it meant. Nevertheless, the State and political parties were responsible for explaining what the different potential results of the referendum would mean for New Caledonia. There were concerns expressed about the concept of full sovereignty. All stakeholders also had to continue to engage in dialogue to construct the post-referendum future by defining a common history and identity.

56. On the issue of delinquency, a plan for prevention was needed, such as regulations on the sale and consumption of alcohol. The fact that over 90 per cent of prisoners in New Caledonia were Kanak also demonstrated the need to address issues affecting Kanak society. Delinquency was considered in part the result of academic failure, as many young people left school without a diploma or qualifications.

57. Regarding the involvement of the United Nations, it was recalled that those who were against independence had initially been reluctant to accept the mission of the Special Committee in 2014. At that time, the Special Committee had been described as "politically coloured", in the sense of not impartial, as New Caledonia had been re-inscribed on the United Nations list of Non-Self-Governing Territories and a number of pro-independence actors had participated in the Special Committee. However, such impressions had changed during and after the first mission and also in the light of the valued contribution of the United Nations mission of electoral experts. Many in New Caledonia were now looking forward to the report of the mission, as

well as that of the United Nations electoral experts. Indeed, the Special Committee and the electoral experts were now understood for who they were and what they did: according to Calédonie ensemble, they had come to New Caledonia to observe, prepare reports based on observations and formulate recommendations. The electoral roll for the referendum had been much improved.

58. In addition, Calédonie ensemble was in favour of a presence of United Nations observers during the referendum in November 2018.

Républicains calédoniens

59. It was recalled that injustices had been committed against the Kanak population during the 1970s and that many people had been in favour of the Kanak cause at that time. However, following the signing of the Matignon Agreement between the Government of France and pro-independence and anti-independence groups, substantial progress had been made over the last 30 years. Key institutions had been established, provinces had been created and two out of three were currently led by pro-independence parties, a number of Kanak managers had been trained and the rebalancing policy was being implemented in the financial, industrial and economic sectors. For the Républicains calédoniens, it was essential to continue making progress on the Kanak cause by reducing inequalities further after the referendum and that could be achieved only by remaining in France, instead of becoming an independent country, which would lack the means to do so.

60. The question posed in the referendum should be clear, simple and understandable because not everyone had the same education level. More precisely, the question should be whether New Caledonians would like to accede to independence or remain in France. However, the word "independence" might not be accepted by all because some feared its consequences.

61. In that regard and according to the Républicains calédoniens, it was important to leave the door open for the proponents of independence and not to shut down their aspiration even if New Caledonia chose to remain in France after three referendums. In their view, pro-independence groups failed to develop viable project proposals for independence, in particular with regard to the means for New Caledonia to sustain itself without France.

Les Républicains

62. The political party Les Républicains was created 40 years ago with the objective of promoting dialogue between those who were for and those who were against independence and guaranteeing a common destiny for New Caledonia. To symbolize that objective, the party raised both the French flag and the Kanak flag.

63. Regarding the referendum, this political group would have preferred another agreement to follow the Nouméa Accord, rather than a referendum, which ran the risk of pitting one part of the population against the other. For the group, the majority of New Caledonians were against independence and a large part of those who favoured independence did so for cultural and identity reasons.

64. In view of the illiteracy rate in New Caledonia (20 per cent, according to this group), the question to be asked at the referendum needed to be clear and understandable. Some voiced concerns that the expression used in the Nouméa Accord, namely "accede to full sovereignty", was not easy to understand. It was proposed that the answer to the question regarding the future status of the territory should read explicitly as follows: "I would like New Caledonia to remain in France" or "I would like New Caledonia to become independent". It would be too divisive to ask a closed question to which the voters would respond with "yes" or "no" only, as

was favoured by the pro-independence groups. Responding "yes" or "no" would only contribute to reinforcing antagonisms, while the question, as this political group envisaged it, should allow the discussions after the referendum to be resumed without one party having said "no" to the other. The Government of France also needed to explain to voters the consequences of their vote from a legal point of view.

Union calédonienne - Front de libération nationale kanak et socialiste

65. Concerns were raised about the underrepresentation of Kanak people on the electoral rolls. For the Union calédonienne-Front de libération nationale kanak et socialiste (UC-FLNKS), the work of the Special Administrative Commissions was dysfunctional, despite the assistance provided by the United Nations electoral experts. Logistic issues had been highlighted, for instance, a number of Kanak people were unable to receive information about the electoral roll by postal mail because they did not have a mail box. UC-FLNKS was reaching out to unregistered voters through the media to encourage their participation in the referendum. The list of voters continued to be updated and about 11,000 voters under customary civil status or ordinary civil status would be included. UC-FLNKS intended to monitor with vigilance any attempt to include any further additional persons on the electoral roll. UC-FLNKS had no intention, for the time being, to boycott the referendum. In April 2018, UC-FLNKS would hold a plenary party meeting to discuss its strategy for the referendum.

66. Regarding the date of the referendum, pro-independence groups had proposed 4 November, while anti-independence groups had originally suggested 28 October. However, an agreement had been reached to set the date for 4 November. On the question to be asked at the referendum, UC-FLNKS proposed the following formulation: "Do you wish New Caledonia to accede to full sovereignty?" The formulation of the question would be discussed at the next meeting of the Committee of Signatories.

67. For UC-FLNKS, it was essential that New Caledonia remained on the list of Non-Self-Governing Territories after the first referendum. In that context, UC-FLNKS reiterated its confidence in the United Nations.

68. As far as economic matters were concerned, the rebalancing policy had not yet produced the expected results and inequalities had increased. The nickel industry had brought income for New Caledonia, but it had also increased living costs in the Territory.

69. UC-FLNKS requested an audit of the decolonization process in New Caledonia.

Union nationale pour l'indépendance-Parti de libération kanak

70. The right to self-determination was a fundamental right for the Kanak people and the referendum in 2018 would mark the first time since 1958 that the "first people" would exercise their right to self-determination (the referendum in 1987 had been boycotted).

71. In preparation for the referendum, the credibility of the electoral rolls was of the utmost importance. In that regard, an agreement had been reached and a draft organic law was expected to be adopted by the National Assembly in March. The date of the referendum was expected to be set for 4 November.

72. Discussions in the next meeting of the Committee of Signatories would focus on the formulation of the question to be posed in the referendum. The proposal of the Union nationale pour l'indépendance-Parti de libération kanak (UNI-Palika) was "Would you like New Caledonia to accede to full sovereignty?" UNI-Palika was of the view that the word "independence" should not appear in the question since the matter was really one of obtaining "full sovereignty", which was the term that should

be used, and the question should include the three elements set out in the Nouméa Accord.

73. Regarding the vision after the referendum, UNI-Palika already started its electoral campaign and prepared a booklet regarding its vision for a future independent State in the Pacific, given that New Caledonia would have a limited transition period after the referendum. Reference was made to a period of four years of transition. If independence were achieved, it would allow New Caledonians to access positions of responsibility, including in the judiciary and in the defence sector. In that context, UNI-Palika was ready to work with France. The support of the international community would also be required after independence.

74. Even though some considered anti-independence groups to make up the majority in New Caledonia, that was not necessarily the case. For instance, pro-independence groups held the majority of the seats in the provincial assemblies in two out of the three provinces and they were leading 22 out of 33 communes.

I. Meetings with the magistrates of the Special Administrative Commissions

75. The interlocutors explained that the role of the Special Administrative Commissions was to revise the special provincial electoral roll and the special electoral roll for the referendum. The Special Administrative Commissions had begun preparing the special electoral roll for the referendum in 2016. The conditions for inclusion on that roll were different to those that applied for the special provincial electoral roll. Even though the review of the provincial roll had proved to be controversial owing to different interpretations of the criteria for inclusion, few issues had been reported for the roll for the referendum. The main issue with the roll for the referendum concerned how to register people who were not already registered on the general electoral roll.

76. The Special Administrative Commissions were collegial bodies that often deliberated within a broad consensus. In 2018, the second special revision period was scheduled for June, in addition to the regular revision in March-April. Since a draft organic law was expected to be adopted in March and enacted in April, a third revision process was expected to take place to implement the automatic registration of voters. It was noted in that regard that automatic voter registration was unusual in the French system, in which voters had to voluntarily initiate their registration process by providing evidence to support the legitimacy of their application to become a voter. It was also emphasized that voter registration required simply the presentation of an identity card to the local city hall.

J. Meeting with the First President of the Court of Appeal, the President of the Tribunal of the First Instance and the President of the Administrative Tribunal

77. The judicial system in New Caledonia had several unique features. For instance, customary judges handled cases involving disputes between persons with customary civil status (Kanak). The application of customary law according to the ethnic origin of the parties concerned was specific to New Caledonia, which resulted in different rules from metropolitan France. For example, the principle of gender equality might not be applicable, depending on the customary backgrounds of the parties concerned. It was considered that the application of customary law was functioning particularly well in New Caledonia. With regard to the Administrative Tribunal, and as was the

case for the Court of Appeal, customary laws specific to New Caledonia applied to customary disputes.

78. If the process or the result of the referendum were contested, the question would be outside the competency of the Court of Appeal and it would be brought to the Constitutional Court in Paris.

79. Responding to a question on the absence of Kanak magistrates, several factors were underlined. One such factor was that the national test for magistrates was held in Paris. Another could simply be a matter of proportion, as the size of the population in New Caledonia, at about 260,000 inhabitants, was much smaller than that of metropolitan France. There was also a tendency in the Kanak culture to have justice delegated to a third party. Another factor was education: in New Caledonia, there was unfortunately no structure to prepare students fully for the national test of magistrates.

K. Meeting with the United Nations electoral experts

80. The discussion focused on the assistance provided by the United Nations electoral experts to the Special Administrative Commissions. On 19 February 2018, for the third consecutive year, a mission of 12 experts, led by one senior expert, had deployed to New Caledonia at the request of the Prime Minister of France. The objective was to assist in the annual revision, scheduled to take place from 1 March to 31 August 2018, of the special electoral roll for the provincial elections and the special electoral roll for the referendum on self-determination. As in previous years, the experts were providing consultative advice on the revision of the electoral rolls and would produce a report upon completion of their activities. A number of observations and recommendations had been made to ensure that the electoral rolls were considered inclusive, transparent and credible. Equally important was the need for an outreach campaign to inform voters of the criteria for registration eligibility since some confusion remained as to the different criteria that applied to each type of electoral roll (the provincial roll and the special roll for the referendum). Some recommendations had also been made by the United Nations electoral experts on the maintenance of the customary status registry. Finally, it was noted that the presence of United Nations electoral observers helped to facilitate the work of the Special Administrative Commissions.

VIII. Economic and social development

A. Visit to the Williama Haudra public high school (Lifou)

81. The mission engaged in an informal exchange with high school students and teachers. Significant inequalities in attaining the high school diploma (baccalauréat) were observed, with a success rate that was four to five times lower among students of Kanak origin, compared with those of European origin. Asked to define what decolonization meant for her, one student characterized it as the process by which "our culture, which was undermined by colonialism, would regain its own place in our own country". Another student indicated that if she and her fellow students decided to pursue higher education abroad, it would be with the intention to return to New Caledonia and serve the territory with "no more shedding of blood". On the question of the referendum, one student wished to look at it from a more positive point of view, seeing "differences as a richness", and to learn more of what life after the referendum would look like.

B. Visit to the solar power plants (Lifou)

82. The mission visited the solar power plants in Lifou in the Loyalty Islands Province. In line with the Energy Transition Scheme of New Caledonia to reduce energy dependence and develop renewable energy, Lifou aimed at increasing its percentage of renewable electricity power from 20 per cent in 2017 to 100 per cent by 2025. For that purpose, the potential of wind and solar power, biofuel and energy storage was being studied further. Since most of the land in Lifou was customary land, construction sites for solar panels were usually leased for a limited period of 20 years.

C. Visit to Easo cruise site (Lifou)

83. When considering the development plan of Easo in Lifou, the development committee of the tourism site of Wetr in Easo chose a cruise ship project over the construction of hotels. Indeed, it was considered that receiving cruises would be better adapted to the islands, in particular in that it would have a greater socioeconomic impact and fewer environmental consequences, enabling more families in Lifou to make a living from tourism. It was also the decision of the local tribal chief to promote authentic cultural tourism, with an emphasis on direct contact with the local population. Over the last 20 years, the number of cruise ships had increased from 5 ships a year in 1995 to the current figure of 120 ships a year. At the time of the visit, the company employed 13 persons, returned a sizeable portion of its profits to the local population and provided employment indirectly to a further 166 persons locally, including transportation providers, souvenir vendors and local guides.

D. Visit to the Koniambo nickel complex (Koné)

84. The mission visited Koniambo nickel complex, a joint venture between the North Province (51 per cent) and the Glencore group (49 per cent), a multinational company. The nickel mine, which is the largest in New Caledonia, is perceived as a long-term economic pillar for the development of North Province and the Territory. Its workforce, of whom 30 per cent are women, is composed of local personnel (80 per cent) and international employees (10 per cent). The company promotes local employment by announcing job vacancies for the local population first. As a result, and according to the company, almost all employees are recruited locally at the level of operator and shift supervisor, while 80-90 per cent of engineers are also from the local population. At the top management level, approximately 35 per cent are local employees. The company also employs a Director for community affairs whose role is to discuss issues of the plant that may affect the local, mostly Kanak population with a view to finding common ground.

E. Visit to the centre for adapted military service (Koné)

85. In the North Province, the mission visited the centre for adapted military service, which is aimed at promoting the social and professional integration of young people, in particular Kanak young people, aged between 18 and 25 years, who are experiencing difficulties at school or in other spheres. It provides them with basic health services and vocational skills to join the labour market. There are currently three adapted military service sites in New Caledonia, namely in Koné, Koumac and Nouméa, offering 17 different training courses, among them vocational classes for bricklayers, mechanics and construction painters, and civic education. The number of young people enrolled increased from 250 in 2010 to 581 in 2017. As many as one in three Kanak young people is currently receiving training at a centre for adapted

military service, and approximately 72 per cent of Kanak young people find employment at the end of their training.

F. Meeting with the Human Rights League

86. According to the President of the Human Rights League, New Caledonia still faced serious social inequality and discrimination. Discrimination had existed since the colonization as Kanak people had been considered "subhumans" and confined to live within reserves. The Human Rights League aimed to end such inequality and discrimination.

87. The acute problems of the youth were brought to the attention of the mission. Currently, approximately 90 per cent of the prisoners in New Caledonia were Kanak people and the majority of them were young people. There was need for structured investment in the youth.

88. Even as a staunch supporter of independence, he had gradually come to recognize the efforts made by the Government of France over the course of his experience.

89. Regarding the status of women, he highlighted that a number of them were subject to violence in their families and in their tribes. Long-term efforts were needed to counter this serious problem. There was also a lack of representation of women in current institutions, such as the Customary Senate.

90. The President of the Human Rights League stated that he did not fear the referendum and reiterated his readiness to work together with all stakeholders, while recognizing the important efforts by the Government of France to bring about a more balanced future for New Caledonia.

G. Meeting with the Economic, Social and Environmental Council

91. The role of the Economic, Social and Environmental Council was to provide advice on territorial draft laws and policy related to economic, social, cultural and environmental issues, usually within a one-month time frame, at the request of either the Government of New Caledonia, the three provincial assemblies or the Customary Senate. The Council, which is a consultative body, did not have decision-making power. The Council was composed of 41 members from associations, unions and other areas. It lacked gender parity as only seven members of the Council were women. Another issue was the underrepresentation of youth.

92. In the Council, there existed 10 sector-based commissions, which conducted hearings involving government and civil society representatives and prepared advisory reports. The topics of recent studies included violence against women (it was stressed that the level of violence against women in New Caledonia as observed in 2003 was one of the highest in France), agricultural product waste, customary judicial normative organizations, infrastructure and the simplification of administrative processes.

H. Visit to the University of New Caledonia (Nouméa)

93. Created 30 years ago, the University of New Caledonia contributed to the implementation of the Nouméa Accord (articles 1.3.3. and 4.1.1.) and served as a tool of the rebalancing policy by providing education and training. The University now teaches a wide range of subjects, such as law, economics, management, language,

literature, science and health, and provides degree programmes up to the doctoral level. In addition, its curriculum and training programmes were tailored to meet local socioeconomic needs. The University provides an important tool for research on and the teaching of the Kanak languages in the territory.

94. The number of students at the University of New Caledonia had increased from 200 in 1988 to 3,000 in 2018. Approximately 10,000 students had received a diploma of higher education. At present, 25 per cent of instructors were New Caledonians, with that percentage expected to increase further.

95. Social inequality still persisted. Indeed, students from the North Province were underrepresented at the University, owing mainly to difficulty in physical access and costs associated with living far away. In the light of that situation, the University would complete by 2020 the construction of a branch in the North Province with a budget of 337 million Pacific francs.

I. Meeting with beneficiaries of the Cadres for the Future programme

96. The mission listened to a presentation on the Cadres for the Future programme (formerly known as "400 cadres"), which had existed since 1989 to train New Caledonian youth (the majority Kanak) to become future managers in the context of the rebalancing policy. A total of 1,700 persons had been trained (of whom 71 per cent were of Kanak origin) and 58 per cent of the beneficiaries of the programme had subsequently been integrated into the public sector. Since 2007, women have made up the majority of beneficiaries of the programme. Notably, 90 per cent of its budget was financed by the Ministry of Overseas Territories and the remaining 10 per cent was financed by the territorial Government. Despite the current austerity measures, the Ministry of Overseas Territories ensured that the budget for the programme would remain intact.

97. Subsequently, the mission held an informal exchange of views with beneficiaries of the programme. Many participants underlined the progress that had been made through the programme, even though there was still a lot of work to be done. For instance, some beneficiaries highlighted that the programme provided an opportunity to explore the world beyond New Caledonia, as well as to access management positions in New Caledonia with responsibilities that would previously have been unthinkable. The programme also contributed to the integration of Kanak youth into the economy of New Caledonia.

J. Visit to the Tjibaou Cultural Centre (Nouméa)

98. The mission visited the Tjibaou Cultural Centre, a place of assertion of Kanak identity and cultural protection, which had been inaugurated in May 1998. The Centre exhibited important monuments and objects representing Kanak culture and the land and nature associated with it. It was also a place of learning for many visitors and students. At the end of the visit, the mission had the opportunity to informally exchange views with the Director of the Centre, Emmanuel Tjibaou, who is the son of the independence leader, Jean-Marie Tjibaou, regarding the protection of Kanak identity, as well as the upcoming referendum.

IX. Meetings in France

A. Meeting with the Minister for Overseas Territories

99. The meeting with the Minister for Overseas Territories (on 19 March in Paris) was held on the same day that the Congress of New Caledonia decided to hold the referendum on 4 November 2018. Regarding the electoral roll for the referendum, it was essential to include the maximum number of voters who could justify their registration to ensure that the referendum was held in a fair and transparent manner. To that end, it was important to reach out to the youth as it was their future that was at stake. The Ministry of Overseas Territories intends to present an information campaign based on two components: an electoral component (explaining to young voters how to register, how to vote and how to use the decentralized polling stations) and an educational component (explaining to young voters the historical context of the referendum and the implications of its outcome).

100. The matter of the question would represent the central point of the next meeting of the Committee of Signatories (27 March 2018). In that context, the parties in New Caledonia, along with the Government of France, were working on formulating a charter of common values, which would represent a common basis to send a strong signal to the population of New Caledonia that, irrespective of the outcome of the referendum, the common values would form the foundation on which to continue to construct the future of the territory. The Minister stated that the role of France was not to take a position but to remain neutral.

101. It was the wish of the Government of France to involve the United Nations Secretariat in helping to organize the presence of different observers so as to guarantee the neutrality of the process. The Minister intended to launch a debate on the delinquency issue in New Caledonia and on how to help the youth in that regard. The Ministry of Overseas Territories also intended to launch an information campaign geared towards the French population at large to ensure that at both ends — in New Caledonia and in the rest of France — the population would be well equipped to understand the context of the referendum.

B. Meeting at the Ministry of Foreign Affairs

102. It was widely recognized that the first mission of the Special Committee four years ago had made a positive contribution to the ongoing process in New Caledonia, having created a climate of trust among the parties in New Caledonia. The Special Committee continued to play a useful role in supporting the relevant stakeholders in the upcoming referendum. In that sense, the current mission of the Special Committee was considered a common success for New Caledonia and the United Nations, as it had helped to further the trust established between the parties. It was also stated that the Government of France would launch an information campaign after the next meeting of the Committee of Signatories aimed at informing voters of their options ahead of the referendum.

X. Conclusions and recommendations

Conclusions

103. The second mission of the Special Committee to New Caledonia was welcomed in a positive spirit, compared with the first mission in March 2014, which had been marked by an atmosphere of suspicion and tension among some of the major political

groups in New Caledonia. The mission reiterated its impartiality and objectivity under the Charter of the United Nations and the mandate of the Special Committee.

104. The overall security situation in New Caledonia remains calm and peaceful in the lead-up to the referendum on self-determination. The importance of peace, stability and security was underscored by all concerned parties in New Caledonia.

105. However, the situation is fluid and fragile given the diverse views on the referendum. There are strong views in favour of and against the status quo arrangements in New Caledonia, as well as intergenerational differences on the holding of the referendum and its outcome, whatever it may be. The generation of New Caledonians born after the civil and political unrest in the 1980s tends to be less concerned with the self-determination process than earlier generations. Juvenile delinquency, notably among young people of Kanak ethnicity in Nouméa, has been deemed to be a potential challenge.

106. The preparations for holding the referendum on self-determination in New Caledonia are on track and well under way. A high level of political will, commitment, dialogue and good faith has been shown by the signatory parties to the Nouméa Accord in connection with the referendum process. It was decided that 4 November 2018 would be the date of the referendum.

107. There is, however, clear recognition of the importance of addressing the remaining challenges in order to ensure the success of the referendum. They include ensuring that the electoral process is acceptable to all parties and that the implications of the choices made in the referendum are clearly explained to the people of the Territory, which remains to be done adequately.

108. The importance of ensuring the conduct of a just, fair, free and transparent referendum is imperative for all parties concerned. The outcome of the referendum and its acceptance by the people of New Caledonia hinges on these fundamental tenets.

109. There has been a significant improvement in the electoral process in New Caledonia since 2014, in particular with regard to voter registration and polling arrangements: about 157,000 New Caledonians have been enrolled for the referendum and a further 11,000 potential voters, approximately, are being considered for registration, which will be finalized by 31 August 2018. A decentralized voting system, including proxy voting under strict criteria for the referendum, has been established, which should be helpful in ensuring the smooth conduct of the referendum. The United Nations electoral experts deployed in New Caledonia, at the request of France, are contributing to these positive developments.

110. The majority of the people and the authorities in the Territory, including political groups, are generally satisfied with the progress that has been made and have expressed confidence in the electoral process for the referendum. This is attributable to the enhanced level of dialogue and mutual understanding between the signatory parties to the Nouméa Accord for a streamlined process to enroll qualified voters in the special electoral roll for the referendum, enabled through an amendment to the organic law under the Constitution of France.

111. There was a high level of anxiety among the political leaders and the people of New Caledonia over the question to be asked in the referendum. Efforts were being made at the political level in the Territory to arrive at mutually acceptable language. There was mutual understanding among the political parties in the territory that the question must be precise, simple and easily understood, including what it means for the future of New Caledonia. All options were to be considered in the framing of the referendum question.

112. With regard to the outcome of the referendum, many New Caledonians remain apprehensive and concerned as they are uncertain about what it will mean. These concerns have not been adequately addressed by the authorities in France and New Caledonia, and calls were made to address them urgently.

113. While the outcome of the referendum remains to be seen, it is noted that the Nouméa Accord provides for the holding of two further referendums, should the outcome be against full sovereignty.

114. It is highly important that all parties concerned respect the outcome of the referendum, whatever it may be, in order to ensure peace, and that they work together to build a common future.

115. Measured progress in the development of infrastructure, education, health and social services, environmental protection and cultural heritage preservation has been observed under the rebalancing policy in New Caledonia, which is funded principally by the Government of France. Examples of such progress have been achieved through the Cadres for the Future programme, adapted military service, the Koniambo nickel mine in the North Province and the tourism sector in the Loyalty Islands.

116. There is, however, much more work to be done to eliminate the inequalities that exist between and also within the three provinces of the Territory. These are prevalent in education and employment, where the proportion of Kanaks remains relatively low in comparison with other ethnic groups, resulting, for example, in school dropout, increased juvenile delinquency, particularly in Nouméa, and a high number of Kanak individuals in prison. It is noted that about 90 per cent of prisoners are Kanaks.

117. The commitment of France to continue to support development measures is welcomed and respected by the people of New Caledonia, but there are also concerns over what may become of that support should the Territory choose full sovereignty.

118. Efforts are under way to ensure respect for and protection and preservation of the Kanak cultural and traditional heritage, supported by the Kanak people, including through the Customary Senate, and the authorities in France and New Caledonia. The Tjibaou Cultural Centre is a prime example. The initiative to use local Kanak languages in the education system is a welcome development and needs strong support to preserve the intangible cultural heritage.

119. The ownership of land and natural resources by the indigenous Kanak people continues to be respected by the authorities of the administering Power and New Caledonia.

120. The undertones of persistent racial discrimination, especially against the Kanak people, remain an ongoing issue that needs to be addressed. Measures, including legal measures, are being taken by the authorities to address it.

Recommendations

121. The mission acknowledges the efforts made by the administering Power to address the recommendations of the mission in 2014, notes the progress made and encourages further measures in that regard.

122. The mission encourages all relevant stakeholders to continue working together to ensure the full implementation of the Nouméa Accord, including the thorough preparation of the referendum to ensure that its conduct is successful.

123. The mission notes that the potential for political unrest cannot be ruled out and that appropriate lawful measures set by the administering Power and the local authorities must therefore be commensurate with any perceived peace and security threat level in the Territory.

124. The mission also notes that close monitoring of the evolving situation of the Territory's referendum electoral process is imperative for the Special Committee to ensure the integrity and credibility of the referendum process and its outcome.

125. The mission acknowledges the calls made to better explain the potential outcomes of the referendum and their consequences to the people of New Caledonia before the referendum, and encourages the administering Power and the Government of New Caledonia, as well as relevant stakeholders, to continue awareness-raising campaigns regarding the referendum and the consequences of the choices.

126. The mission stresses the importance of strengthening measures to finalize the referendum electoral roll in order to contribute to the successful conduct of the referendum.

127. The mission notes that over 50 per cent of the population in New Caledonia are young people and stresses the importance of taking the measures necessary to ensure that adequate education, training and employment opportunities are available for the economic and social future of New Caledonia.

128. The mission appreciates the progress made in terms of the promotion and protection of Kanak cultural heritage, but notes the concerns put forward by the customary chiefs regarding their proposals, which have often been inadequately taken into account and addressed by the authorities and must be catered for.

129. The mission takes note of the challenges regarding land and natural resource management and encourages the provision of assistance to Kanak resource owners to develop the land to benefit their people and communities. Meaningful and continuous dialogue is therefore encouraged.

130. The mission emphasizes the increasing role of women in public life in New Caledonia and recognizes their contribution to the referendum process, which needs to be further encouraged. However, gender-based violence is a concern, especially among Kanak women, and must be addressed with tact and sensitivity given the cultural issues involved.

131. The mission takes note of the concerns expressed by some interlocutors that the transfer of powers agreed under the Nouméa Accord remains incomplete, despite the great efforts made by the Committee of Signatories, and encourages the Committee of Signatories to address those concerns.

132. The mission encourages the administering Power and the Government of New Caledonia, as well as other stakeholders, to consider inviting the relevant United Nations entities to act as observers during the referendum, and also encourages the administering Power to provide in advance the terms of reference for the international observers for the referendum.

133. The mission calls on the administering Power and the Government of New Caledonia to ensure the implementation of the 2030 Agenda for Sustainable Development in the Territory in order to build a sustainable community and leave no one behind.